

Washington County Land Use Authority Meeting
May 10, 2011
(Recording available)

The Washington County Land Use Authority Meeting was held on Tuesday, May 10, 2011 at the Washington County Administration Building, 197 E. Tabernacle, St. George, Utah. The meeting was convened at 1:30 p.m. by Chairman Mike Stucki. Commissioners present: Dave Everett, Doug Wilson, JoAnn Balen, and Kim Ford. Staff present: Deon Goheen, Planning & Zoning Administrator; Todd Edwards, County Engineer; Rachelle Ehlert, Deputy Attorney; Kurt Gardner, Building Official; Kim Hafen County Clerk; John Willie, Planning Administrator; and Doreen Bowers-Irons, Planning Secretary.

Excused: Julie Cropper, Deborah Christopher

Absent: Rick Jones

Audience attendance: Jerry Eves, Rick Partain, Debra Kermott, Gary Kermott, Eric Clarke, Steve Prows, Mark Weston

Chairman Stucki led the audience in the Pledge of Allegiance and explained meeting protocol.

Rachelle Ehlert introduced a new employee, Eric Clarke, who will represent the County Attorney's office at meetings when needed. Mr. Clark gave a brief background of himself. He stated he looked forward to working with the Commission.

I. STAFF COMMENTS. Review staff comments for each item listed below; Staff initiated.

II. SITE PLAN REVIEW EXTENSION. Review a Site Plan Extension for construction progress on a 2,400 square foot metal building for a warehouse rental within the M-1 (Manufacturing) Zone near Veyo, Utah; Allen Feller, applicant. (Tabled March 8, and April 12, 2011)

The Planner stated this item was tabled at the last meeting due to lack of representation. The applicant contacted her and indicated he was unable to attend this meeting; however, the project was completed. Kurt Gardner, County Building Official, inspected the property and took pictures. The building was completed and C.O. was issued. The applicant planted four (4) trees along the frontage and installed a chain link fence with slats around the perimeter. She showed the pictures to the commission and asked if the project was acceptable to them.

Kurt Gardner reported on his inspection of the property. The building was completed and a Certificate of Occupancy was issued. He indicated the requirements of the Conditional Use Permit appear to be completed.

Commissioner Everett stated his concern with the fencing slats in that they tend to slide down and get damaged. They become a maintenance issue, which should be monitored.

Motion: Commissioner Ford MOVED to recommend approval, on a permanent basis, a metal building for a warehouse rental within the M-1 Zone near Veyo. Commissioner Wilson SECONDED. The motion carried with all four (4) Commissioners voting in favor.

III. CONDITIONAL USE PERMIT EXTENSION. Review Conditional Use Permit Extension to operate an aggregate processing plant and crushing operation in an existing grandfathered pit on 22.39 acres located in a portion of Section 32, T39S, R16W, SLB&M, generally located east of Veyo within an A-10 zoning designation; Sunroc Corporation/Russell, Leslie, and Dana Truman, applicants.

Motion: Commissioner Balen MOVED to table the item until the applicant was in attendance. Commissioner Everett SECONDED. The motion carried with all four (4) Commissioners voting in favor and the item was tabled.

The applicant arrived and the Commission moved back to this item.

The Planner stated this is an annual review to the Conditional Use Permit that was granted for a rock crushing processing plant. She reported the property is located in Veyo on an existing cinder pit and was a grandfathered use. Sunroc purchased the pit from Feller Stone a few years ago. The applicants have not done much work there recently; however, they would like to keep the plant open and the conditional use permit in place.

Commissioner Balen asked if there had been any complaints regarding the business. The Planner stated there had not been.

Dana Truman, representative of Sunroc Corporation, reported they have removed some product from the property but not much. They take it as needed and as the market will allow. More products will be removed once the market allows, however, they do not see that taking place within the year. The property is maintained. It has been fenced and locked. He asked the Commission to consider approval for the extension and asked if there were any questions.

There were no questions for the applicant and no additional comments.

Motion: Commissioner Balen MOVED to recommend approval of the Conditional Use Permit Extension for one year for the aggregate processing plant and crushing operation in an existing grandfathered pit on 22.39 acres located in Section 32, T39S, R16W SLB&M generally located east of Veyo within the A-10 zoning designation. Commissioner Ford SECONDED. The motion carried with all four (4) Commissioners voting in favor.

IV. CONDITIONAL USE PERMIT EXTENSION. Request permission to locate a temporary batch plant and job site trailer within the OSC-20 zone, for the expansion of the Red Butte Substation on Forest Service land near Central; Schmidt Construction, applicant.

Motion: Commissioner Balen MOVED to table the item until the end of the meeting to allow the applicant more time to be in attendance. Commissioner Ford SECONDED. The motion carried with all four (4) Commissioners voting in favor and the item was tabled.

Motion: Commissioner Ford MOVED to table the item until next month when the applicant was in attendance. Commissioner Wilson SECONDED. The motion carried with all four (4) Commissioners voting in favor and the item was tabled.

V. MODIFICATION OF MOTION/CONDITIONAL USE PERMIT. Request for modification of previous motion locating four (4) wind towers on State Land near Anderson Junction; Jerry Eves/Southwest Wind Energy, applicant.

The Planner stated the applicant is requesting a Modification of the Motion to the original conditional use permit to allow him to submit the lease agreement with SITLA at the time of the building permit submittal. The applicant wants to make sure that the County Commission approves the conditional use permit prior to spending large amounts of time and money. All of the other requirements have been met.

Commissioner Ford asked about the letter from the State for the lease agreement. The planner answered a standard letter format from the State was included in the December planning packet. A discussion regarding the letter from SITLA and the project startup time frame ensued.

Jerry Eves addressed the Commission asking for the modification to his conditional use permit in the event the permit is not approved, he would not waste resources. He would like to have the county commission approve the conditional use permit before he signs the lease so that if the conditional use permit is denied, he is not out money and has a lease he can do nothing with.

Rachelle Ehlert stated this would work for the applicant and the County. No one at staff level has any objections to the lease being signed at the time of the building permits being submitted.

Todd Edwards stated he received the information he had concerns about including the letters from BLM and the Forest Service. He stated he was comfortable receiving the lease agreement at the time of the building permit application.

Ms. Ehlert stated there will be some modifications to the ordinance within the next few years so that these types of applications would be easier to address.

Chairman Stucki clarified the intent of the modification request is to allow concurrent approval of the lease agreement with the State and the submission of the building permit applications. The planner answered that is correct.

Mr. Eves stated he would submit the lease and required reclamation bond when the building permit application is submitted.

Ms. Ehlert explained the request for modification of the motion so that it was clearly understood.

The request for the modification was discussed in length, which included clarification of the modification, the timing of the Conditional Use Permit, the previous meetings, and the letters from the State, BLM and the Forest Service.

Chairman Stucki asked if there were any comments on this item.

Gary Kermott, stated he lives in New Harmony. When it was stated that a special meeting held in December for this project was a "Christmas present" to the applicant, the rest of us got a lump of coal. This project is located along the I-15 corridor and is an eyesore for the County who depends on the beauty of the geography. People come to the area to recreate and enjoy the scenery. This would be detrimental to the corridor and a huge mistake. As a County resident, he objects to the wind towers in this area and thought they should be moved to an area where they would not be such an eyesore.

Commissioner Stucki advised Mr. Kermott that a public hearing was held for this project in December 2010. Based on the information presented at that meeting, the commission granted approval for the project. The applicant is here for a modification to that approved conditional use permit, not for approval of the wind towers.

Debra Kermott stated her concerns for the towers that the height and look of the towers could be detrimental to the area.

A short discussion regarding the impact the towers would have on the area took place. Chairman Stucki stated it was individual perception with regard to how people viewed the wind towers; personally, he liked them.

Kim Hafen advised the Commission one of the parcels this project is located on, in Toquerville, is currently on the County Tax Sale. That may affect the project, in that the towers would not have access due to the proposed road being through the property in the tax sale. If the property were sold to someone else they might not want a road going through the property.

Commissioner Everett asked what the impact of the property in the tax sale does to the project. After a discussion regarding the tax sale, it was decided the property was not in the jurisdiction of the County and therefore had no impact to the decision the commission was considering at this time.

Motion: Commissioner Balen MOVED to recommend the County Commission approve a Modification of Motion/Conditional Use Permit request to the previous motion of December 1, 2010, locating four (4) wind towers on State Land near Anderson Junction by allowing the applicant to submit the SITLA lease agreement to the County at the time of the building permit request, rather than prior to the Conditional Use Permit approval as required in the previous motion. Commissioner Wilson seconded. The motion carried with all four (4) Commissioners voting in favor.

The Planner stated this item will on the consent agenda for approval before the County Commission on May 17, 2011 at 4:00 p.m.

VI. CONDITIONAL USE PERMIT. Request to operate a non-profit therapeutic riding center on 30 acres located in the Doug Thorley Subdivision, generally located southeast of New Harmony within the A-20 zoning designation; Debra Kermott, applicant.

The Planner explained the location of the Silver Spur Riding Center in New Harmony. The property is located in the A-20 zone. The applicant is requesting a Conditional Use Permit to operate a therapeutic horseback riding center for people with disabilities and special needs for therapy. Because this is a riding center and similar to riding stables, it falls into the same category of riding stables, which requires a conditional use permit.

The applicant handed out flyers about the business and the open house that was held over the weekend.

Commissioner Everett asked what type of handicap or disabled individuals with would use this facility.

Debra Kermott explained the equine therapeutic program. She stated the people they help are people who have M.S, Muscular Dystrophy, Autism, and those types of disabilities. This therapy helps people develop core body and muscle strength. There is a need for this type of facility in the southern part of the state that has not been available. She averred that she does not profit with this business, she only charges people to help cover costs of the insurance and maintenance.

Commissioner Everett asked about fire protection for the stables and around the buildings. Ms. Kermott answered that the fire chief had inspected the property and his only recommendation was to install a 1,600 gallon water tank for additional water in the event of a fire. The brush has been cleared and we keep the property clean.

Chairman Stucki asked Kurt Gardner to answer questions on the water requirements for fire. Mr. Gardner reported the County follows the Urban Wildland Interface for the area. No additional water other than the 1,600 gallon tank would be required.

Chairman Stucki asked about inspections for compliance. Mr. Gardner stated an inspection is based on the number of people who would be at the property and this use would have a minimal number of people and therefore an inspection would not be required.

A discussion on additional water, fire protection, and safety for the facility and buildings occurred.

Todd Edwards stated his issues with the project have been addressed.

Chairman Stucki asked what type of non-profit organization the center was. Ms. Kermott answered it is a 501C-3 through the IRS. It is a Utah Non-profit Corporation and they have a business license.

Ms. Kermott explained the extensive training she received for equine therapeutic riding. They use their own horses; no other people bring in horses. She reiterated that they make no money providing this service.

Commissioner Balen stated she was thrilled to see this program. It is a great thing for the southern end of the state. She commended the applicants for their program and facility, especially doing this as a non-profit.

Chairman Ford asked if the open house was well attended. Ms. Kermott informed him that it was.

A discussion took place for the facts and findings for the Equine Therapy Center. The Commission found the following findings of facts:

Findings of facts:

- The proposed use is similar to a riding stable and is allowed with a Conditional Use Permit.
- The property has a defensible space around the buildings and has been inspected and approved by the local Fire Chief with the recommendation for an additional 1,600 gallon water tank.
- This program, Equine Therapy, provides a much needed and beneficial community service for individuals in the area with disabilities.
- There is no public opposition to the program.
- The parking adequately meets the requirements.
- The business is properly licensed and has necessary training for equine therapy.
- Is a registered non-profit organization.

Motion: Commissioner Balen **MOVED** to recommend the County Commission approve the Conditional Use Permit as requested to operate a non-profit therapeutic riding center on 30-acres located in the Doug Thorley Subdivision, generally located southeast of New Harmony within the A-20 zoning designation, based on the following findings of facts:

Findings of facts:

- **The proposed use is similar to a riding stable and is allowed with a Conditional Use Permit.**
- **The property has a defensible space around the buildings and has been inspected and approved by the local Fire Chief with the recommendation for an additional 1,600 gallon water tank.**
- **This program, Equine Therapy, provides a much needed and beneficial community service for individuals in the area with disabilities.**
- **There is no public opposition to the program.**
- **The parking adequately meets the requirements.**
- **The business is properly licensed and has necessary training for equine therapy.**
- **Is a registered non-profit organization.**

Commissioner Ford SECONDED. The motion carried with all four (4) Commissioners voting in favor.

The Planner stated this item will on the consent agenda for approval before the County Commission on May 17, 2011 at 4:00 p.m.

VII. CONDITIONAL USE PERMIT. Request permission for three (3) motorized valve buildings in Central, Gunlock and near Beaver Dam for the UNEV Petroleum Pipeline Project within the OSC-20 zone; Cindy Gubler/UNEV representative, applicant.

The Planner stated the commission reviewed and approved this project in the past. When the conditional use permit approval was granted, the buildings were not included on the original plans. The applicant is here requesting a conditional use permit to install three (3) motorized valve buildings that would house the valves for the pipeline. She pointed out on the map the areas where the buildings would be located, which were Pipeline Milepost 295.2 in Central, Utah; Pipeline Milepost 303.2 in Gunlock, Utah; and Pipeline Milepost 325.4 by Beaver Dam, Utah. The valves are pressurized stations critical to the pipeline.

Chairman Stucki stated he thought the buildings had been covered in the previous meeting. The Planner advised him they had not; unfortunately, they were overlooked.

Commissioner Balen asked if the buildings would be fenced to prevent vandalism. She was informed they would be.

Commissioner Everett asked for clarification of the location of the pipeline on the maps provided.

Rick Partrain, Terminal Manager for UNEV in Las Vegas Nevada, addressed the Commission. He explained the pipeline project, the capacity, and different products carried through the lines. He stated the buildings are non-occupied, pre-engineered, PE stamped, and pre-built to meet the building code requirements. They are used for the SCADA system related to the pipeline. They are motor operated valves and monitored in the event the valves need to be closed for any reason that can be done at these strategic places. The buildings will be fenced by a 75x50x8-chain-link fence with razor wire. In addition, bollards will be surrounding the building.

Commission Everett stated his concerns regarding the buildings being shot up causing a gas leak or explosion. Mr. Partrain stated the pipeline is underground; the buildings house valves, not gas, so there would not be a leak. These lines are watched very close. It is a federal offense to damage the buildings or cause any type of problem with pipelines.

Chairman Stucki asked what the energy source was to run the pumps. Mr. Partrain answered that two of the sites are operated by solar power; one uses 240 volt electrical power.

Mr. Partrain apologized for the problem with the buildings not being on the original conditional use request. He stated this project has been in the works for 5 years now to supply and distribute fuel to the Southern Utah/Nevada areas. The terminals are located in Cedar City and Las Vegas. This will make it less costly and easier to get product to the southern end of the state.

A discussion regarding the pipeline occurred between the applicant and the commission. It was noted that there would be solar panels located along the line every two miles.

The Commission discussed and found the following findings of facts:

Findings of Facts:

- The buildings were overlooked and not part of the original Conditional Use Permit.
- These buildings are an integral and necessary part of the pipeline for safety and completion of the project.
- The project buildings are in compliance with State and Federal standards and regulations.

Motion: Commissioner Everett MOVED to approve the Conditional Use Permit for three (3) motorized valve buildings with fencing, bollards, and a communication satellite dish in

Central, Gunlock, and near Beaver Dam for the UNEV Petroleum Pipeline Project located in the OSC-20 zone based on the following findings of facts:

Findings of Facts:

- **The buildings were overlooked and not part of the original Conditional Use Permit.**
- **These buildings are an integral and necessary part of the pipeline for safety and completion of the project.**
- **The buildings are in compliance with State and Federal standards and regulations.**

Commissioner Balen SECONDED. The motion carried with all four (4) Commissioners voting in favor.

The Planner stated this item will on the consent agenda for approval before the County Commission on May 17, 2011 at 4:00 p.m.

VIII. DISCUSSION ITEM/ORDINANCE AMENDMENT. Washington County Land Use (Zoning) Ordinance review possible amendments to 10-13-21 Supplementary and Qualifying Regulations for Residential Facilities for Persons with a Disability; County initiated.

Commissioner Balen asked if this item came about from the calls and letter received regarding the Ark of Dammeron Valley business.

The Planner stated that it did cause the County to look at the ordinance and the attorney's office recommended that there should be some changes to the ordinance to make it less restrictive.

The Planner and County Attorney explained the reasons this item came about. One reason was based on a \$35 Million judgment from the Labor Division in Salt Lake against Duchesne for violating disabled people's rights based on a decision that came out of their Planning Commission. The County Commission went against the Planning Commission or made a final decision that was discriminatory. That decision caused Washington County Attorney's office to look at our ordinance. Based on the research that had been done, the county ordinance is consistent with most other cities and counties in Utah. The Attorney's office is still fearful that portions of the ordinance may be viewed as discriminatory. We have been working with our insurance company on this issue. They have someone they contract with for this type of issue. That contracted attorney agreed to review the ordinance and make recommendations to ensure that the county complies with disability facilities and the issues that come about from them. He has already looked at the ordinance and made a couple of recommendations. When he has completed his findings, we will bring this back to the Commission for review and to make any necessary changes to the ordinance to avoid any type of conflict or discriminatory issues.

A lengthy discussion related to various types of treatment facilities, the current ordinance and amendments to consider, federal and state laws related to disabilities, and areas where treatment facilities could be located occurred.

IX. DISCUSSION ITEM/ORDINANCE AMENDMENT. Washington County Land Use (Zoning) Ordinance review possible amendments regarding Wind Energy Systems and Facilities; County initiated.

The Planner reviewed the Wind Energy Ordinance for possible amendments. She stated Perry Thompson, the Associate Director for USTAR, Technology Outreach showed a power point presentation at the previous meeting to help us understand certain areas in the ordinance that help us understand certain areas in the ordinance that you may want to change. Mr. Thomson compiled further information for the commission's review as per your request. She stated copies of Model Wind Ordinance, the Sound Intensity document and the aerodynamics of a wind blade and corresponding explanation of "thumping" sounds were included in the packet information. Mr. Thomson further explains that the "glint" or "glare" question will be a little more difficult to explain. He has requested information from the manufacturers of wind turbine blades regarding the application of anti-reflective coating. It appears that each manufacturer has a proprietary technology on the chemicals and/or

methods they utilize to prevent or diminish glint or glare. But it is safe to say, the current methods of manufacturing of the blades include a treatment which is meant to mitigate any glint by treating the surface with a low reflective material. Mr. Thomson would support a requirement indicating that including the shadow calculation and time lapse video of that shadow affect, a corresponding glint mitigation effort or coating by the manufacturer is provided. She asked how the commission would like to proceed.

A lengthy discussion regarding the current county ordinance and the model ordinance took place. The commission decided to further review the model ordinance and make a decision at the next meeting.

X. LEGISLATIVE UPDATES: Review the 2011 Legislative Summary of House and Senate Bills effective May 10th and the Open Meeting Laws; County Initiated.

The Planner reviewed the Legislative updates with the Commission. She advised the Commission of changes to the Open Meetings Act and other Legislative decisions that will need to be addressed. The Planning Commission will be reviewing these changes during future meetings for compliance.

XI. STAFF DECISIONS. Review of decisions from the Land Use Authority Staff Meeting held on May 3, 2011; County initiated.

The Planner reviewed Staff decisions of the Land Use Authority Staff Meeting held May 3, 2011.

CONDITIONAL USE PERMIT EXTENSION:

A. Review extension to build a 2nd dwelling for a family member within the A-20 zone, located in the Prince Lot Split, which is north of the North Valley Ranches Subdivision. Tim & Kristy Northon, applicant.

The planner explained that this is the 3rd extension. Previously, the applicant met the requirements for a Conditional Use Permit by submitting a site plan, deeds of ownership, septic permit from the Southwest Utah Public Health Department, and a letter from the North Valley Ranch Water Company stating they will serve water. Second dwellings for a family member are conditionally approved within the A-20 zone, with the property containing 20 acres, Prince Lot Split (1 of 8 lots approved). The property is accessed from Hwy 144, at 1451 E. 2000 North, generally located northeast of New Harmony. The site plan met all setback requirements for 25' on the sides, rear and frontage. There is record (Permit #5871) of final occupancy being granted by the building department in July of 2010, by Building Inspector Henry Brannon. **The staff felt there would be no problem in granting this Conditional Use Permit based on permanent status.**

CONDITIONAL USE PERMITS:

A. Request permission for a single family dwelling within the A-20 zone, near New Harmony. Mark & Lyn Ann Ellsworth Imlay, applicant

The applicant has met the requirements for a Conditional Use Permit by submitting a site plan, deeds of ownership, septic permit from the Southwest Utah Public Health Department, and verification on quantity and quality on a private well. Single family dwellings are conditionally approved within the A-20 zone, with the property containing 50 acres, Section 23, T38S, R13W, SLB&M. The property is accessed from 1100 E and 600 S., generally located southeast of New Harmony. The site plan meets all setback requirements for 25' on the sides, rear and frontage. **The staff felt there would be no problem in approving this Conditional Use Permit for a one (1) year period.**

B. Request permission for a single family dwelling within the OST-20 zone, Prince Lot Split (lot 2) near New Harmony. Kerry and David Webb, applicant/Ekker Design Build, agent.

The applicant meets the requirements for a Conditional Use Permit by submitting a site plan, deeds of ownership, septic permit from the Southwest Utah Public Health Department, and a stock certificate from the North Valley Ranch Water Company showing they will serve water. Single family dwellings are conditionally approved within the OST-20 zone, with the property containing 20 acres, Prince Lot Split (1 of 8 lots approved). The property is accessed from Hwy 144, at 1503 E. 2000 North, generally located northeast of New Harmony. The site plan met all setback requirements for 25' on the sides, rear and frontage. **The staff felt there would be no problem in approving this Conditional Use Permit for the period of one (1) year.**

XII. MINUTES. Consider approval of the minutes of the regular Planning Commission meeting and work meeting held April 12, 2011.

Motion: Commissioner Ford **MOVED** to adopt the Minutes of April 12, 2011. Commissioner Wilson **SECONDED**. The motion passed with four (4) commissioners voting aye.

XIII. COUNTY COMMISSION ACTION REVIEW. Review of action taken by the County Commission on Planning Items on May 3, 2011; County initiated.

The Planner reported there were no items from the Planning Commission for the Commission to approve.

XIV. COMMISSION & STAFF REPORTS: General reporting on various topics; County initiated.

Motion was made and seconded to adjourn the meeting at 3:45p.m.

Doreen Bowers-Irons
Planning Secretary

Approved: 14 June 2011